

**Tamil Nadu Industrial Establishments (Conferment Of
Permanent Status To Workmen) Act, 1981**

46 OF 1981

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**Tamil Nadu Industrial Establishments (Conferment Of
Permanent Status To Workmen) Act, 1981**

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An Act to provide for the conferment of permanent status to workmen in the industrial establishments in the State of Tamil Nadu.

Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty-second Year of the Republic of India as follows :-

1. Short title, extent, application and commencement :-

(1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It applies to every industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than fifty workmen were employed on any day of the preceding twelve months. If any question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently,

the decision of the Government thereon shall be final:

Provided that the Government may, by notification, apply the provisions of this Act to any industrial establishment employing such number of workmen less than fifty as may be specified in the notification.

(4) It shall come into force on such date as the Government may, by notification, appoint :

Provided that nothing contained in this Act shall apply to any industrial establishment until the expiry of a period of two years from the date of its establishment

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "employer" means the owner of an industrial establishment to which this Act for the time being applies and includes,--

(a) in a factory, any person named under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (Central Act LXIII of 1948) as manager of the factory ;

(b) in any industrial establishment under the control of any department of any State Government in India, the authority appointed by such State Government in this behalf, or where no authority is so appointed, the head of the department ;

(c) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment ;

(2) "Government" means the State Government;

(3) "industrial establishment" means-

(a) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or any place which is deemed to be a factory under subsection (2) of section 85 of that Act ; or

(b) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951) ; or

(c) a motor transport undertaking as defined in clause (g) of section 2 of the Motor Transport workers Act, 1961 (Central Act 27 of 1961) ; or

(d) a beedi industrial premises as defined in clause (i) of section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966) ;

or

(e) an establishment as defined in clause (6) of section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act

XXXVI of 1947) ; or

(f) a catering establishment as defined in clause (1) of section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958) ; or

(g) any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act ;

(4) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the term of employment be express or implied, but does not include any such person,-

(a) who is employed in the police service or as an officer or, other employee or a prison ; or

(b) who is employed mainly in a managerial or administrative capacity ; or

(c) who, being employed in a supervisory capacity, draws wages exceeding one thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

3. Conferment of permanent status to workmen :-

(1) Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty-four calendar months in an industrial establishment shall be made permanent.

(2) A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike, which is not illegal, or a lock-out or on account of non-employment or discharge of such workman for a period which does not exceed three months and during which period a substitute has been employed in his place by the employer, or a cessation of work which is not due to any fault on the part of the workman.

Explanation.-For the purposes of this section, the number of days on which a workman has worked in an industrial establishment shall include the days on which-

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing

Orders) Act, 1946 (Central Act XX of 1946) or under any other law applicable to the industrial establishment ;

(ii) he has been on leave with full wages, earned in the previous years ;

(iii) he has been absent due to temporary disable-ment caused by accident arising out of and in the course of his employment ; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks,

4. Appointment of Inspectors :-

(1) The Government may, by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purpose of this Act within such local limits as the Government may specify.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

5. Powers and duties of Inspectors :-

Subject to any rules made by the Government in this behalf, the Inspector may, within the local limits for which he is appointed,-

(a) enter at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any industrial establishment;

(b) make Such examination of the industrial establishment and of any registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

6. Penalties :-

(1) Every employer who contravenes the provisions of section 3 shall be punishable with fine which may extend to five thousand rupees and in the case of continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) No prosecution for an offence punishable under the section shall

be instituted except with the previous sanction of the prescribed authority.

7. Act not to apply to workmen employed in certain industrial establishment :-

Nothing contained in this Act, shall apply to workmen employed in an industrial establishment engaged in the construction of buildings, bridges, roads, canals, dams or other construction work whether structural, mechanical or electrical.

8. Cognizance of offence :-

No court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence under this Act.

9. Power to exempt :-

The Government may, by notification, exempt conditionally or unconditionally any employer or class of employers or any industrial establishment or class of industrial establishments from the provisions of this Act.

10. Power to make rules :-

(1) The Government may make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(3) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

or notification.